

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101

PREPARED BY: Larry A. Peters, P.E., Town Engineer / (954) 797-1114

SUBJECT: Developers Agreement

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: Agreement for Orange Drive Improvements

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE ACTING TOWN ADMINISTRATOR TO ENTER INTO AN OFF SITE ROAD IMPROVEMENT AGREEMENT BETWEEN THE TOWN OF DAVIE, AND THE MONTESSORI INSTITUTE OF BROWARD INC, A.F. OF GRIFFIN ROAD, LLC (STRIKE ZONE), AND FC SOUTH, LLC (FLAMINGO COMMONS), FOR THE COST OF ROADWAY IMPROVEMENTS ALONG ORANGE DRIVE BETWEEN FLAMINGO ROAD AND THE ENTRANCE OF FLAMINGO COMMONS; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The request is for Town Council to authorize the Mayor and Acting Town Administrator to enter into a Road Improvement Agreement between the Town of Davie, Montessori Institute Of Broward Inc, A.F. Of Griffin Road, LLC (Strike Zone), and FC South, LLC. This agreement is to improve the current roadway conditions on Orange Drive from Flamingo Road (SR 823) going west to the entrance of the Flamingo Commons development. The total contribution of \$140,000.00 by the three developers mentioned above will be used for the design and build out of the project. The project will involve improvement of the existing roadway, shoulder widening along Orange Drive, widening the north lane of Orange Drive to accommodate a right turn lane into Flamingo Commons westbound on Orange Drive, a right turn lane eastbound to southbound onto the bridge, resurfacing, and regrading of the swale areas to improve drainage and the installation of landscaped median separators along Orange Drive near Flamingo Commons.

This request is in connection with Town Council approval of Agenda item 4.22 on the December 15, 2004 Town Council Meeting.

PREVIOUS ACTIONS: None

CONCURRENCES: N/A

FISCAL IMPACT: N/A

RECOMMENDATION(S): Staff finds the subject agreement complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Resolution, Exhibit "A" (Property), Exhibit "B" (Improvements), Exhibit "C" (Agreement)

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN OFF SITE ROAD IMPROVEMENT AGREEMENT BETWEEN THE TOWN OF DAVIE, AND THE MONTESSORI INSTITUTE OF BROWARD INC, A.F. OF GRIFFIN ROAD, LLC (STRIKE ZONE), AND FC SOUTH, LLC (FLAMINGO COMMONS), FOR THE COST OF ROADWAY IMPROVEMENTS ALONG ORANGE DRIVE BETWEEN FLAMINGO ROAD AND THE ENTRANCE OF FLAMINGO COMMONS; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Developers desire to construct certain road improvements on the property generally described on the attached Exhibit A; and

WHEREAS, the Town desires to construct certain road improvements on Orange Drive adjacent to the property, said improvements are described in the attached Exhibit B; and

WHEREAS, the Town and the Developers have verbally agreed to certain matters with regard to said road improvements and wish to set forth those agreements in writing;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby authorize the Mayor and Acting Town Administrator to enter into an Agreement, attached hereto as Exhibit "C".

SECTION 2. The Town agrees that it shall construct the Improvements within two (2) years of the date of this Agreement. In the event that the Town fails to perform said Improvements the Developers shall be entitled to the return of any Payment made within thirty (30) days of submitting a written request.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2006

MAYOR/COUNCILMEMBER

Attest:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2006.

Exhibit A

Ice Plat, Flamingo Commons - Parcel F

A portion of Parcel "A", ICE PLAT, according to the plat thereof as recorded in Plat Book 165, Page(s) 21, Public Records of Broward County, Florida, being more particularly described as follows:

Commence at the East quarter (E 1/4) corner of Section 26, Township 50 South, Range 40 East; thence South 01° 47' 01" East on the East line of said Section 26, a distance of 119.64 feet; thence South 88° 12' 59" West, a distance of 319.82 feet to the Point of Beginning; thence South 01° 34' 28" East, a distance of 145.66 feet to the beginning of a tangent curve concave to the West; thence Southerly on the arc of said curve having a radius of 175.00 feet through a central angle of 34° 33' 09" in an arc distance of 105.54 feet to a point of a reverse curve concave to the East; thence Southerly on the arc of said curve having a radius of 175.00 feet through a central angle of 37° 16' 04" in an arc distance of 113.83 feet to a point of tangency; thence South 04° 27' 22" East a distance of 34° 33' 09" in an arc distance of 113.83 feet to a point of tangency; thence North 01° 13' 46" West a distance of 42.38 feet to the intersection with the South line of said Parcel "A"; thence South 88° 26' 14" West on said South line of Parcel "A", a distance of 150.26 feet; thence North 01° 13' 46" West a distance of 280.00 feet; thence South 88° 26' 14" West a distance of 62.04 feet; thence North 01° 47' 01" West a distance of 34.65 feet; thence North 88° 30' 56" East, a distance of 36.60 feet to the beginning of a tangent curve concave to the South; thence Easterly on the arc of said curve having a radius of 205.00 feet through a central angle of 32° 41' 44" in an arc distance of 116.98 feet to a point of tangency; thence North 88° 12' 46" East a distance of 87.44 feet to the Point of Beginning.

Said lands lying in the Town of Davie, Broward County, Florida.

Together With:

A portion of Parcel "A", ICE PLAT, according to the plat thereof as recorded in Plat Book 165, Page(s) 21, Public Records of Broward County, Florida, described as follows:

Commence at the Southwesterly corner of said Parcel "A"; thence along the Southerly line of said Parcel "A" the following four (4) courses: (1) North 84° 40' 15" West (bearing basis) 65.51 feet; (2) South 88° 26' 14" West 285.00 feet to the Point of Beginning; (3) South 01° 33' 46" East, a distance of 12.00 feet; (4) South 88° 26' 14" West 62.04 feet; thence North 01° 13' 46" West, a distance of 163.22 feet; thence North 34° 29' 24" West, a distance of 137.25 feet; thence North 55° 30' 56" East, a distance of 88.72 feet; thence South 01° 47' 01" East, a distance of 34.65 feet; thence North 88° 26' 14" East, a distance of 62.04 feet; thence South 01° 33' 46" East 280.00 feet to the Point of Beginning.

Said lands situate, lying and being in the Town of Davie, Broward County, Florida.

Exhibit "A"
Page 1 of 3
Montessori Institute
Legal Description

SCHEDULE "A"

A portion of Parcel "A", ICE PLAT, according to the plat thereof as recorded in Plat Book 165, Page 21, Public Records of Broward County, Florida and a portion of Parcel "A", ICE PLAT II, according to the plat thereof as recorded in Plat Book 170, Pages 136 and 137, Public Records of Broward County, Florida, all being more particularly described as follows:

Commence at the East one-quarter (E1/4) corner of said Section 26, Township 50 South, Range 40 East, Broward County, Florida; thence South $01^{\circ} 47' 01''$ East on the East line of said Section 26, a distance of 527.86 feet; thence South $88^{\circ} 26' 14''$ West 50.00 feet to the Northeast corner of an 80.00 foot road right of way dedication as described in O.R. Book 15742, page 968, Public Records of Broward County, Florida; thence North $01^{\circ} 47' 01''$ West on a line 50.00 feet West of and parallel with said East line of Section 26, a distance of 30.12 feet to the Easterly most Southeast corner of said Parcel "A", ICE PLAT II and the Point of Beginning; thence on the South line of said ICE PLAT II the following three (3) courses and distances;

1. South $43^{\circ} 19' 37''$ West 42.50 feet to the intersection with the North line of said 80 foot road right of way said point being the Westerly most Southeast corner of said Parcel "A", ICE PLAT II;
2. South $88^{\circ} 26' 14''$ West, a distance of 10.19 feet;
3. North $84^{\circ} 43' 13''$ West, 100.72 feet;

Thence South $88^{\circ} 26' 14''$ West on said South line of said Parcel "A" of ICE PLAT II, the North right of way line Orange Drive as dedicated by O.R. Book 31550, Page 1655, Public Records of Broward County, Florida and the South line of said Parcel "A", ICE PLAT, a distance of 189.49 feet; thence North $04^{\circ} 27' 22''$ West, 42.38 feet to the beginning of a tangent curve concave to the Southeast; thence Northeasterly on the arc of said curve having a radius of 175.00 feet, through a central angle of $37^{\circ} 16' 04''$ and arc distance of 113.83 feet to a point of reverse curvature with a curve concave to the Northwest; thence Northeasterly on the arc of said curve having a radius of 175.00 feet, through a central angle of $34^{\circ} 33' 09''$ an arc distance of 105.53 feet to a point of tangency; thence North $01^{\circ} 44' 28''$ West 145.66 feet; thence North $88^{\circ} 12' 40''$ East 269.91 feet to the intersection with the West right of way line of Flamingo Road as described in Deed Book 390, Page 187, Public Records of Broward County, Florida and the East line of said Parcel "A", ICE PLAT; thence South $01^{\circ} 47' 01''$ East on said West right of way line of Flamingo Road, the East line of said Parcel "A", ICE PLAT and the East line of said Parcel "A", ICE PLAT II, a distance of 377.94 feet to the Point of Beginning.

Said lands lying in the Town of Davie, Broward County, Florida.

Exhibit "A"
Page 2 of 3
Strike Zone
Legal Description



CRAVEN • THOMPSON & ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS
3563 N.W. 53RD STREET FORT LAUDERDALE, FLORIDA 33309 (954) 739-6400
FAX: (954) 739-6409

FOR: **FC SOUTH LLC**

Exhibit "A"
Page 3 of 3
F.C. South
Legal Description

DESCRIPTION:

A PORTION OF PARCEL 'A', OF "ICE PLAT", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 165, PAGE 21 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID PARCEL 'A'; THENCE NORTH 88°26'14" EAST, ALONG THE SOUTH LINE OF SAID PARCEL 'A', A DISTANCE OF 412.69 FEET TO THE POINT OF BEGINNING; THENCE NORTH 01°33'46" WEST, A DISTANCE OF 242.00 FEET; THENCE NORTH 88°26'14" EAST, A DISTANCE OF 344.20 FEET; THENCE SOUTH 34°29'24" EAST, A DISTANCE OF 93.86 FEET; THENCE SOUTH 01°33'46" EAST, A DISTANCE OF 163.22 FEET; THENCE SOUTH 88°26'14" WEST, ALONG THE SOUTH LINE OF PARCEL 'A', A DISTANCE OF 395.22 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA AND CONTAIN 93,633 SQUARE FEET (2.150 ACRES) MORE OR LESS.

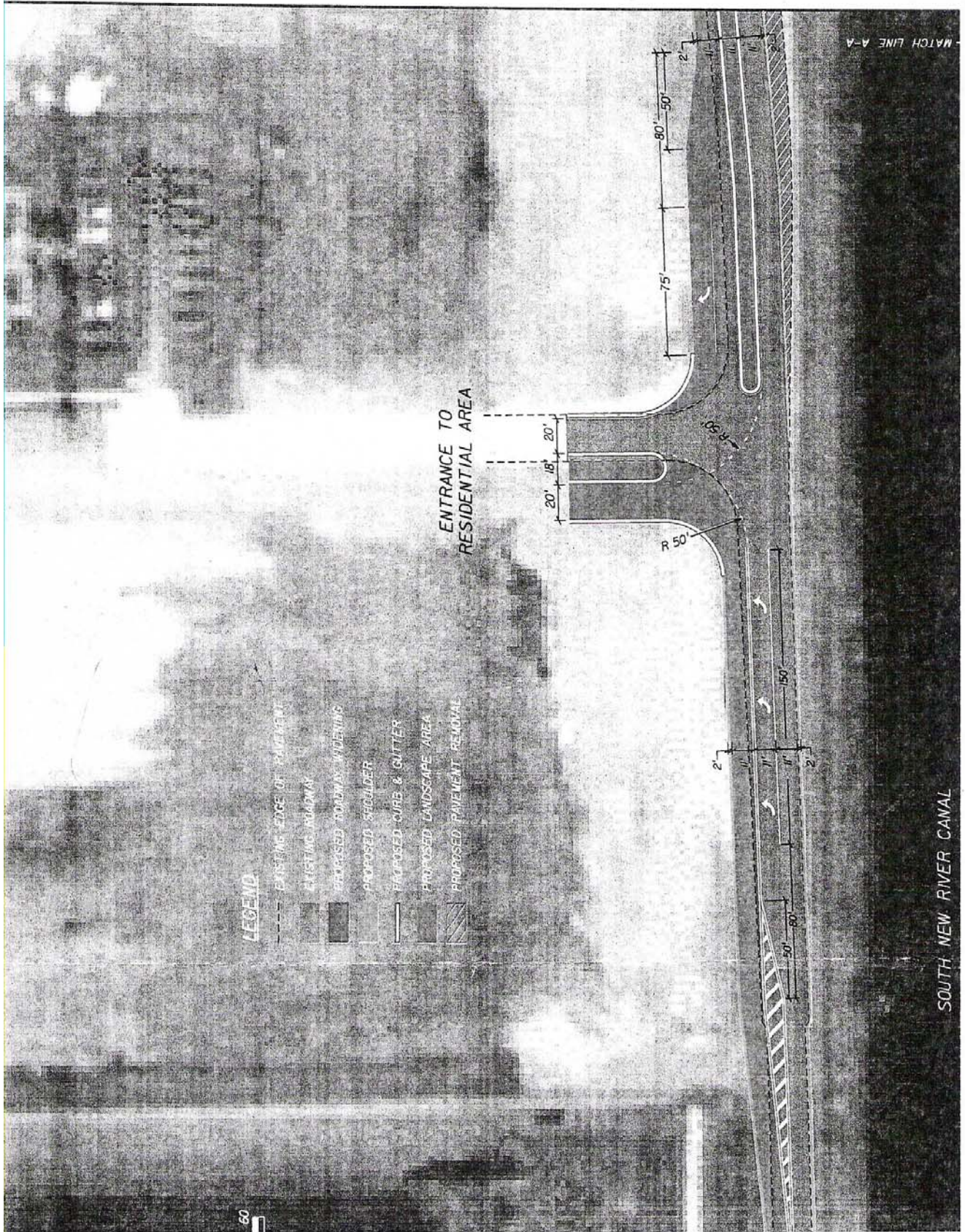
SHEETS_1_OF_3_SHEETS

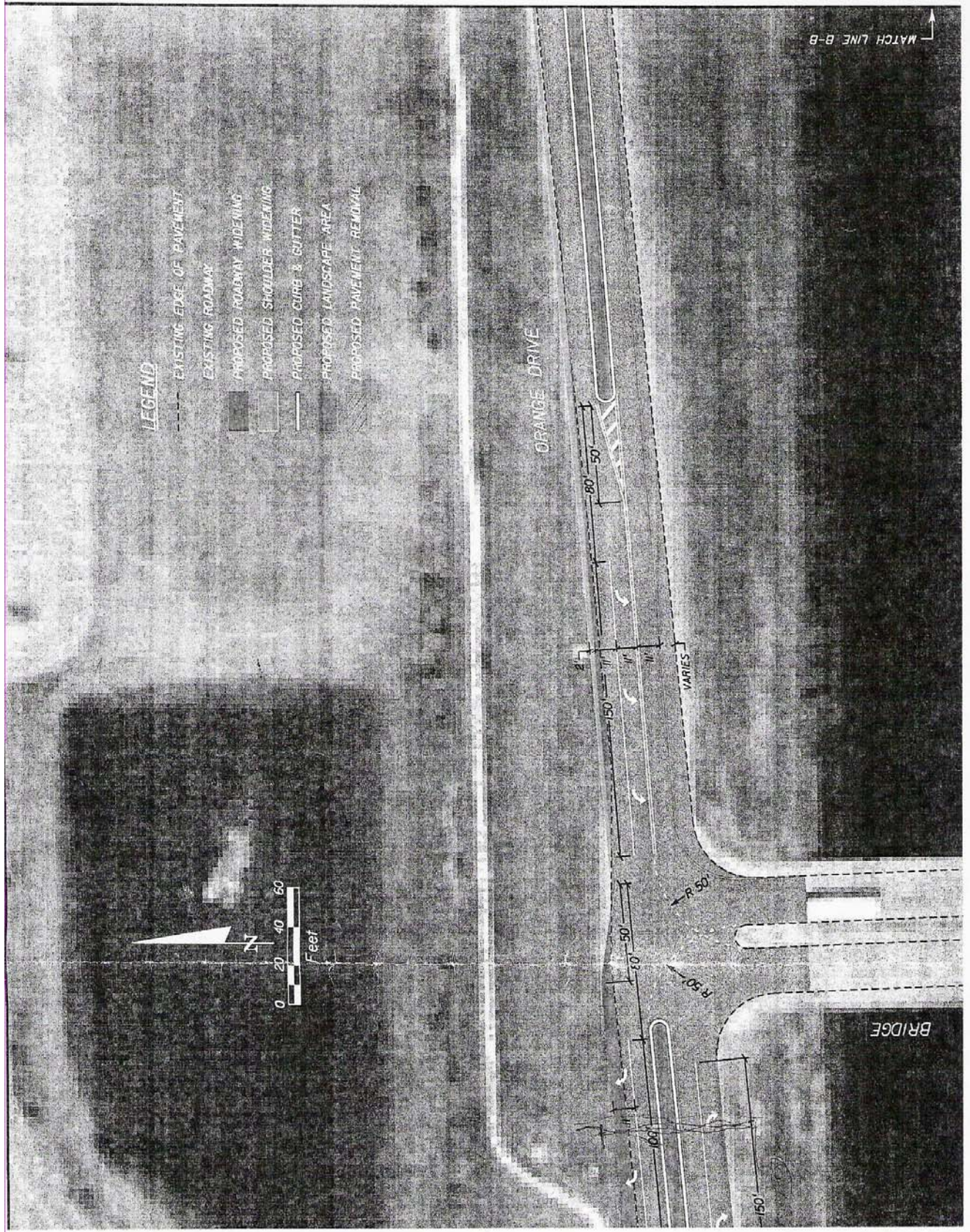
UPDATES and/or REVISIONS	DATE	BY	CK'D

NOTE The undersigned and CRAVEN-THOMPSON & ASSOCIATES, INC. make no representations or guarantees as to the information reflected hereon pertaining to easements, rights-of-way, set back lines, reservations, agreements and other similar matters, and further, this instrument is not intended to reflect or set forth all such matters. Such information should be obtained and confirmed by others through appropriate title verification.

NOTE Lands shown hereon were not abstracted for right-of-way and/or easements of record.

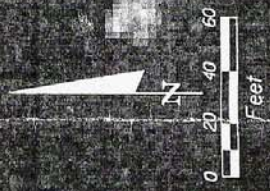
JOB NO.: 04-0057	DRAWN BY:	CHECKED BY:	F.B. BOOK PG.	DATED: 11-22-04
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LEGEND

- EXISTING EDGE OF PAVEMENT
- EXISTING ROADWAY
- PROPOSED ROADWAY WIDENING
- PROPOSED SHOULDER WIDENING
- PROPOSED CURB & GUTTER
- PROPOSED LANDSCAPE AREA
- PROPOSED PAVEMENT REMOVAL



ORANGE DRIVE

BRIDGE

MATCH LINE B-B

80' 50'

150'

VARIES

R 50'

R 50'

150'



AGREEMENT

THIS AGREEMENT ("Agreement") is entered into by and among the MONTESSORI INSTITUTE OF BROWARD ("School), A.F. OF GRIFFIN ROAD, LLC ("GRIFFIN ROAD"), and FC SOUTH, LLC ("FC") (collectively, the "Developers), and The Town of Davie ("Town") effective _____, 2005.

RECITALS:

A. The Developers desire to construct certain improvements on the property generally described on the attached Exhibit "A" ("Property").

B. The Town desires to construct certain improvements on Orange Drive adjacent to the Property, said improvements are described in the attached Exhibit "B" (Improvements").

C. The Town and the Developers have verbally agreed to certain matters with regard to said Improvements and wish to set forth those agreements in writing.

NOW THEREFORE, in consideration of the mutual covenants and other good and valuable consideration, the parties agree as follows:

1. The foregoing recitations are true and correct and are incorporated herein by this reference.

2. The Developers each hereby agree to pay the Town a proportionate one-third (1/3) share of ONE HUNDRED FORTY THOUSAND DOLLARS (\$140,000) as payment for the construction of the Improvements ("Payment").

3. Each Developer agrees that the Payment shall be made the earlier of: within six (6) months of the Town's issuance of a building permit for construction or prior to the issuance of a Certificate of Occupancy for each Developer's property.

4. The Town agrees that it shall construct the Improvements within two (2) years of the date of this Agreement. In the event that the Town fails to perform said Improvements the Developers shall be entitled to the return of any Payment made within thirty (30) days of submitting a written request for same.

5. In the event any of the Developers fail to timely make any required payment contemplated by this Agreement (Defaulting Developer), then the remaining Developers shall not have any obligation to pay those sums not paid by the Defaulting Developer. Any amounts not paid by any Developer within thirty (30) days following notice thereof shall accrue interest at the rate of eighteen percent (18%) per annum.

6. In the event there is litigation relative to the enforcement of this Agreement, then the non-prevailing party shall be responsible for the payment of the costs including without limitation, reasonable attorneys' fees through all trial and appellate levels and post judgment proceedings

7. Nothing in this Agreement shall be deemed to create a partnership or joint venture between the Developers.

8. This Agreement shall not be construed more strictly against any of the parties hereto by virtue of the preparation of this Agreement.

9. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement. This Agreement may be executed by telecopy or e-mail.

10. This Agreement shall terminate automatically upon the completion of the improvements outlined in the Proposal.

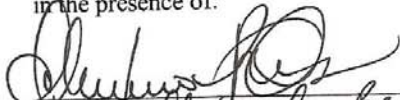
11. The parties hereto acknowledge and agree that upon payment of the fees associated with the Proposal, the Developers will have satisfied all of their transportation requirements. Therefore, upon receipt of payment, the Town will not require any additional traffic improvements, or payments related thereto.

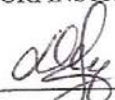
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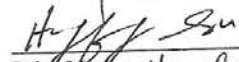
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set above.

Signed, Sealed and Delivered
in the presence of:

MONTESSORI INSTITUTE OF BROWARD


Print Name: Alexandra Benavides

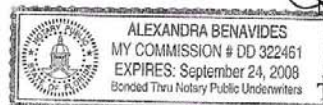
By: 
Print Name: DANIEL COVARRUBIAS
Title: PRESIDENT

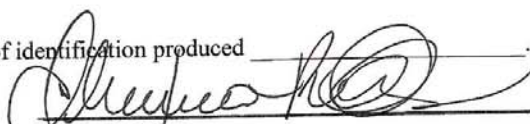

Print Name: Hungfeng Su

STATE OF FLORIDA)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this 15 day of December 2005, by Daniel Covarrubias as _____ of MONTESSORI INSTITUTE OF BROWARD., a _____ corporation, on behalf of the corporation. He or she is:

☒ personally known to me, or
☐ produced identification. Type of identification produced _____




Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:

George Newsum
Print Name: George Newsum
CHRISTY PEREZ
Print Name: CHRISTY PEREZ

A.F. OF GRIFFIN ROAD, LLC

By: Alex Hernandez
Print Name: Alex Hernandez
Title: President

STATE OF FLORIDA)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this 30th day of September, 2005, by Alex Hernandez, as President of A.F. OF GRIFFIN ROAD, LLC, a Florida corporation, on behalf of the corporation. He or she is:

☒ personally known to me, or
☐ produced identification. Type of identification produced _____.

Leesa K. Romero
Notary Public
Leesa K. Romero
Typed, printed or stamped name of Notary Public

My Commission Expires:



FTL:1360343:4

FC SOUTH, LLC

Fred S. Matas
Print Name: Fred S. MATAS
Jacqueline Tenn
Print Name: JACQUELINE TENN

By: Howard J. Zimmerman
Print Name: HOWARD J. ZIMMERMAN
Title: MANAGER

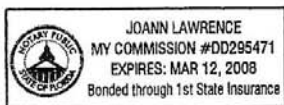
STATE OF FLORIDA)
) SS.
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 23rd day of AUGUST, 2005, by HOWARD J. ZIMMERMAN as MANAGER of FC SOUTH, LLC, a limited liability company, on behalf of the company. (He or she is: ☒ personally known to me, or ☐ produced identification. Type of identification produced N/A.)

JoAnn Lawrence
Notary Public

JOANN LAWRENCE
Typed, printed or stamped name of Notary Public

My Commission Expires:



FTL:1360343:3

ATTEST:

TOWN OF DAVIE, through its
TOWN COUNCIL

Town Administrator and
Town Clerk
Town of Davie, Florida

By _____
Mayor

____ day of _____, 2005

Insurance requirements
approved by the Town's
Risk Manager

Approved as to form by
Office of Town Attorney
Town of Davie, Florida
Monroe Kiar, Town Attorney
6591 Orange Drive
Davie, Florida 33314
Telephone: (954) 584-9770
Telecopier: (954) 797-1023

By _____

By _____
Town Attorney

STATE OF FLORIDA)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 2005, by _____, as _____ of the TOWN OF DAVIE, FLORIDA, a governmental entity, on behalf of the governmental entity. He or she is:
[] personally known to me, or
[] produced identification. Type of identification produced _____.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:

FTL:1360343:4

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